

2013 HOUSE EDUCATION

HB 1421

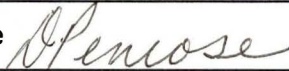
2013 HOUSE STANDING COMMITTEE MINUTES

House Education Committee
Pioneer Room, State Capitol

HB 1421
February 4, 2013
18235

☐ Conference Committee

Committee Clerk Signature



Minutes:

Ch. Nathe: We will open the hearing on HB 1421.

Rep. Joshua Boschee: Sponsor, support (see attached 1, 2, 3).

Rep. Meier: Do you know why there is such a wide variance in the price of milk per carton.

Rep. Joshua Boschee: I think it is a combination of things, fuel prices going up, demand in the areas, etc.

Ch. Nathe: The kids that currently do not qualify for milk or juice at the break, are being covered for meals at lunch and afterschool.

Rep. Joshua Boschee: There are programs through the federal government that assists through all those areas; initially there were funds for the milk breaks but when breakfast started, the breaks were taken away. So there is no funding to assist in those areas.

Ch. Nathe: But they are covered on everything else.

Rep. Joshua Boschee: Correct, as far as I know.

Rep. Rust: So the children who probably are approved for free and reduced meals, so they get a milk at breakfast, around 8:00 am; get another milk at lunch around 11:30 am; then if they were in an afterschool program, they probably could as well. So they probably would be approved for at least a couple of milks during the course of the day. This would give them an additional milk at about 10:30 am, is that correct.

Rep. Joshua Boschee: That is what I would understand, that generally there is a milk break within most school districts that certain students are not having that need met.

Rep. Rust: What is the number of schools that don't have a breakfast program, and how that correlates to the number of schools that have a lunch program. Did you get any information on this when you looked at this bill.

Rep. Joshua Boschee: I didn't look specifically at some of those other programs, but I do know that there are staff that may be able to speak to that.

Ch. Nathe: The federal government used to pay for these federal programs but now have pulled the funding. You're coming here to ask us to pick up that slack.

Rep. Joshua Boschee: As I understand it, yes there used to be some sort of funding that assisted with milk; however, as we expanded federal programs for before and after school assistance, I think that is where they used some of the funds and reallocated them.

Rep. B. Koppelman: Are there any restrictions on whether a local district could or could not pay for this out of tax dollars or other revenues that they had. I think at the time, you said you weren't aware of anything but you were going to research some things.

Rep. Joshua Boschee: In my research, there is nothing that I found that would limit a local school board's authority to use funds to support a program like this. As I indicated, different school districts manage these funds differently. Some out of their general operating, some require the parent/guardian to pay for it, others use a combination. This is providing another resource for school districts that are not able to meet those needs independently of this. We have two schools, elementary schools within my district specifically, that have some of the highest numbers of free and reduced. We know of kids there that aren't receiving milk or juice during that time.

Ch. Nathe: This is basically for kids K-3, is that right.

Rep. Joshua Boschee: Correct.

Ch. Nathe: Thank you. Further testimony in support.

Kayla Pulver-Macher, ND Education Association: Support. This would help our at-risk populations and as some of my members have told me, it is much easier to learn on a full stomach, so our teachers would definitely support that.

Ch. Nathe: Thank you. Further testimony in support.

Linda Schlayer, Director of Child Nutrition and Food Distribution Programs with DPI: I would be happy to answer any questions you might have.

Rep. Schatz: The \$1,239,300, is that your number or where did the number come from.

Linda Schlayer: That is a number that actually Rep. Boschee came up using the statistics that we had given him, with the number of children who are eligible for free and reduce-priced meals, K-3, then using the \$.25/carton and the average number of school days per year.

Rep. Schatz: Do you verify that as an actual expense or has Legislative Council's fiscal group looked at that, or is that number just taking some figures and saying that this is exactly how many kids are not getting milk/juice in the state.

Linda Schlayer: No, that is not an exact number. That is a number that was derived using some statistics based on the number of children eligible for free or reduced-priced meals. The amendment that Rep. Boschee submitted is lower because he had asked us for some information on what we felt participation would be and based on historical data, we feel that it would probably be closer to 50% of the districts that actually would participate in this program, if it would be available. That's just because historically when there was a special milk program available for districts several years ago, we didn't have full participation from districts. The funds that are no longer available that Rep. Boschee was referring to, a program that was available to the state, but then it was not available once the school breakfast program came in. It's a program called the "special milk program". It's a program that's available through USGA and it is available to all of the districts within the state, but it is money that's only available for children who don't have access to school breakfast or school lunch. We have some districts who are participating with their preschool programs, which is kind of ironic that we were just speaking about that. It is for children who aren't at the school for school breakfast or lunch.

Rep. Schatz: I taught for a long time and I don't really remember any kids going without something like this. It would have caused a riot around there if they had. We're not going to be unfair to some kids. I don't know if that is going on at other schools where some are getting it and some are not.

Linda Schlayer: Just from our experience working with school nutrition programs throughout the state and working with a variety of programs in rural and small districts vs. our larger districts we have found that the smaller districts tend to be more likely to contribute general fund money into the program and to cover some of these costs. Whereas our larger districts, their school nutrition programs are basically self-sufficient. They need to fund their own programs and there is no general fund money that goes into those programs; there are not additional funds available to the school nutrition programs or to those programs in which they can cover the cost of milk/juice for these children. When you are looking at a district that might a significant number of free and reduced-priced eligible children in grades K-3, it's not just a couple of hundred dollars a month. It can get to be quite expensive.

Ch. Nathe: So some districts already are covering this cost on their own.

Linda Schlayer: Yes, in many of our districts they are just covering the cost, so the kids who are receiving free or reduced-price meals, even though the district doesn't receive any money for the milk during the milk break, they are covering it.

Rep. Meier: How many students currently in the state are on the free and reduced-price meals.

Linda Schlayer: Throughout the state, as of October, 2012, we had approx. 30,000 children, K-12.

Rep. Meier: When did the federal government actually start the breakfast program.

Linda Schlayer: The school breakfast program came into law about 1966. As of this year, approx. 85-90% of our schools in the state participate in school breakfast.

Rep. Meier: So most of them do already participate.

Linda Schlayer: Yes; although participation of children is quite a bit lower than the school lunch program.

Rep. Heller: The schools that are offering it now out of their general fund monies, nothing would stop them from wanting to get the funds if somebody is going to give it to them and then they can use their general fund dollars for something else. It's possible that 100% of school districts would ask for this money, because if somebody is going to give you some money and you can use what you are already allocating for this on something else, why not take it.

Linda Schlayer: Yes, theoretically they could.

Ch. Nathe: It just frees up more money for the district.

Rep. Rohr: So the USDA program is a federal program. Do the non-public schools qualify for these dollars.

Linda Schlayer: Yes, non-publics have the same access to the program as publics.

Ch. Nathe: Thank you. Further testimony in support. Testimony in opposition.

Rep. J. Kelsh: You asked a question about the price differences for the carton of milk. ND has a milk stabilization board that was set up years ago to help maintain a price for farmers and for processors of milk. They basically determine what milk sells for in the grocery store, with some variance. The cities of Fargo and Grand Forks, and Wahpeton and all border cities have the option of competing with MN stores who do not have that price of milk as high as we are. That's why there is a big variance. In Ellendale, ND, for instance, they have people who will go to Aberdeen, SD and buy a week's supply of milk, a different person does it all the time. Now, SD has the same thing going on, they send people up to buy cigarettes because their taxes are higher in SD.

Ch. Nathe: I have a constituent who owns a number of big C-stores here in Bismarck and Mandan, with the same argument. He wants to see that done away with, because he can buy milk cheaper in other states and sell it cheaper here.

Rep. D. Johnson: As the chairman of Agriculture, the milk law was enacted in 1939 and it prevents any milk from outside of ND to be marketed in ND, unless it goes through the ND Dairy. If you are going to have a contract with any fast food or chain in ND and you are an outside dairy, you have to find a dairy in ND to distribute that milk for you, and they handle it and package accordingly.

Ch. Nathe: So all milk in ND must come from a creamery in ND.

Rep. D. Johnson: All milk that is utilized in ND has to come through a ND supplier. A dairy from CA or AZ, if they want it marketed and sold in ND, they have to find a ND dairy to have their products put on the shelves in ND. This was put into place to protect dairy farmers.

Rep. Rohr: Do we need to determine the percentage of non-public schools that may be coming in asking for a subsidy for their schools, once the federal funds go away.

Ch. Nathe: No, the federal funds have gone away already. This bill has the state picking up the slack for the absence of federal dollars. We will close the hearing.

Committee Action in the afternoon of the same day.

Ch. Nathe: We will take a look at HB 1421. What are the committee's wishes.

Rep. Schatz: This is the bill about the milk and there are several things that bothered me about it. First of all, it seemed like Rep. Boschee had his own numbers, that he had calculated himself, so it really hadn't filtered through either DPI or LC. They made it sound like kids are going to sit there, one with nothing and one would be drinking and I don't think that happens. I move a Do Not Pass.

Rep. D. Johnson: Second the motion.

Rep. Mock: I support the bill. It may be fine for the smaller rural schools, but in the larger districts, that's thousands of dollars a year that they just can't eat as a cost. On the fiscal note, it notes 30,000 children are eligible for free and reduced meals. I honestly believe that there are kids sitting in those schools that do not get that milk or juice because they can't afford it, that that would be their only means of having milk or juice and because the school district has so many of those students, you take that out over 360 days throughout the biennium, that's just not a cost that's not picked up.

Ch. Nathe: As was said in the testimony, a large percent of the districts are already covering these costs. A lot of these children are getting their breakfast, lunch, and afterschool snacks already paid for by the federal government. I think it's a local control matter. We have school districts that can put money aside to pay for these

things. If we start to take care of this, the schools that are already taking care of this matter will want their share of the money.

Rep. Mock: The reason we have the free and reduced food program is because it was always left up to local control and there were kids that were going without a hot lunch. I think that was the point of the free and reduced lunch program, that every child that went to a public school in America had access to food and hopefully milk.

Rep. B. Koppelman: In the case of breakfast and lunch, the argument can be made that if a child is hungry, they are not going to learn. That was always the premise on having free and reduced and even offering a breakfast at all. When you look at the recommended amount of milk that a child should have, essentially having two cartons of milk (1 pint) in a 4 hour period is fine. I don't think the recommendation would be to have it every 2 hours as a necessity. This is not an issue of being hungry or not; if anything it's an issue about nutrition and I again go back to my previous point about the recommended amount.

Rep. Rust: For those schools that are in the national school lunch program, after that, nothing is left up to local control. Once that decision is made, the regulations are all spelled out for you. It is cloaked in secrecy, as it should be, so that people do not know who is going to participate in those programs. You have a person who reviews the applications, make a determination, and if somebody is denied, they can appeal that. Once again, it's a person that's designated to go through the Appeal process. Local control doesn't make a lot of difference with regard to the breakfast or lunch program. I think they are already getting what they need at breakfast and lunch. It seemed to me that those kids that probably didn't eat breakfast probably had the milk break and those who did, didn't get the milk. Otherwise, you would be having 3 .5 pints in a 3.5 or 4 hour period. I think that those children are not going hungry.

Rep. Mock: I agree, if the child had breakfast, they are providing that milk for that. It was stated this morning that most of the schools participate in the breakfast program, but not all the kids do. The number of kids participating in the breakfast program is significantly lower than the number of schools that have it available. When you're in K-3rd grade, you are dependent on that parent to get you to school in time to even eat breakfast.

Rep. J. Kelsh: There was some question about the money put in the original bill. As it was written, it was for anybody, not only K-3, it was for K-6, which was double the amount of money put in there. When it was changed to K-3, it cut it in half.

Ch. Nathe: We will take a roll call vote.

10 YES 3 NO 0 ABSENT

DO NOT PASS

CARRIER: Rep. B. Koppelman

Date: 2/4/13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1421

House EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Amended ☐ Rerefer to Appropriations

☒ Do Not Pass ☐ Adopt Amendment

Motion Made By Rep. Schatz Seconded By Rep. Johnson

Representatives	Yes	No	Representatives	Yes	No
Chairman Mike Nathe	✓		Rep. Bob Hunsakor		✓
Rep. Mike Schatz	✓		Rep. Jerry Kelsh		✓
Rep. Joe Heilman	✓		Rep. Corey Mock		✓
Rep. Brenda Heller	✓				
Rep. Dennis Johnson	✓				
Rep. Ben Koppelman	✓				
Rep. Lisa Meier	✓				
Rep. Karen Rohr	✓				
Rep. David Rust	✓				
Rep. John Wall	✓				

TOTAL (YES) 10 (NO) 3 (ABSENT) 0

FLOOR ASSIGNMENT Rep. Koppelman

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1421: Education Committee (Rep. Nathe, Chairman) recommends **DO NOT PASS** (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1421 was placed on the Eleventh order on the calendar.

2013 TESTIMONY

HB 1421

#1

HB 1421 Testimony
Representative Joshua A. Boschee, District 44
House Education Committee

Chairman Nathe and Committee Members,

My name is Joshua Boschee and I represent District 44, which comprises a portion of north Fargo.

I am here to ask your support of HB 1421, which is legislation that I am introducing at the request of constituents in my district. HB 1421 would provide an allocation of \$557,685 for the biennium to the Department of Public Instruction to assist school districts throughout the state in ensuring that all Kindergarten through third grade students receive milk or juice during a designated snack break.

As you may know, Kindergarten through third grade students throughout the state generally have a milk/juice break mid-morning. I remember as a child myself, taking a ten or fifteen minute break in which we would wash our hands and sit down for a milk break, usually accompanied with a story read to us by our teacher. Throughout this last election cycle, it came to my attention that in my district and other districts throughout the state, while the milk/juice break is common practice, there are many students whose family cannot afford to pay for the milk/juice served during the day. This means that literally, some students are consuming milk/juice during the break, while other students sit with nothing. This is unfortunate because as you know, when students are hungry, they lack focus and ability to concentrate in the classroom.

I have handed out testimony from Melissa Sobolik, who serves as the Director of Agency & Client Services with the Great Plains Food Bank. The Food Bank provides support and resources to food shelves and pantries throughout the state. As you will see in her testimony, the Backpack Program that they instituted throughout the state has been instrumental in increasing student's concentration, improved behavior, health and academic performance as reported by the parents and teachers of children that participate. The children that participate in the Backpack program are very likely to be the same students that would benefit from support through these funds for a milk/juice program.

Also, you will see that for the past two years, children identify milk and juice within their top 5 favorite foods. Milk is of course the preferred option for this program, with juice being offered for students that have dietary or cultural restrictions. Additionally, many creameries that provide the milk to the schools, like Cass-Clay, also have 100% juice options available.

Each district administers their milk/juice break program differently. For instance, some districts include the cost of the milk/juice in their general operating budget, others require parents or guardians to cover the cost and still others do a combination. In the Fargo Public Schools District, the parents or guardians are responsible for the costs and for families that can't afford the milk/juice, the FPS Foundation has set up the "Got No Milk Fund" in which community members can make donations to cover the costs of milk/juice. However, the need is greater than the funds allow, so there are still students that go without milk/juice during the break. In visiting with legislators from throughout the state, they are aware of similar situations in the school districts they represent.

In visiting with the Child Nutrition and Food Distribution Programs staff in the Department of Public Instruction, they hear from school districts that have a need for assistance with the mid-morning milk/juice break. Based on current funding and program limitations, DPI staff are not able to provide assistance for milk/juice break, but do have Federal resources to assist with breakfast, lunch and after school meals. They are confident that these funds would be utilized by school districts and would tie it with other free-and-reduced program reporting so as to not create additional work load. Their preference in setting up the program would be to have the funds be available as reimbursable funds so they aren't dedicated to districts based on free and reduced numbers, but instead are requested by districts that need them to ensure all K-3 children have access to milk or juice during the break.

The \$557,685 was developed based on the fact that during the current academic year, there were 13,518 K-3 children that qualified for free and reduced meal programs. The price of milk ranges from \$0.17 to \$0.34 per carton. DPI staff estimate that less than half of the school districts would access these funds, so for initial funding, I used 6,075 eligible (45%) K-3 children times \$0.255 per carton (average per carton cost) times 360 days of instruction for the 2013-2015 biennium. During the biennium the Child Nutrition and Food Distribution Programs staff in the Department of Public Instruction will work with school districts to determine future biennium needs based on reimbursement actually provided to districts for eligible children.

This investment in our children will help keep some of the highest risk kids healthier, more focused and increase academic success.

Thank you for your time and I request a DO PASS recommendation on HB 1421.

Proposed Amendments to House Bill 1421

House Education Committee
Representative Joshua Boschee

Page 1, line 5 - strike \$1,239,300 and add \$557,685

Page 1, line 7 - after "day for" add "K-3" to read "each day for K-3 students"

Chairman Nathe and Education Committee,

I apologize that I'm unable to be there in person on Monday to testify in support of HB 1421. Please accept my written testimony.

I am the Director of Agency & Client Services at the Great Plains Food Bank. We are the only food bank in the state of North Dakota and besides working with food pantries, shelters and soup kitchens we also manage the Backpack Program in 8 communities across North Dakota. (Fargo, West Fargo, Turtle Mountain reservation, Grand Forks, Grafton, Jamestown, LaMoure, Edgeley) The Backpack Program is a program targeted to chronically hungry students in schools. Each Friday participating students receive a bag filled with kid-friendly food to consume over the weekend, when school meals aren't available. Three years ago we started the program with just 90 students in one Fargo school, and now are serving over 1,500 students at more than 35 schools.

We started the program at the request of a West Fargo counselor. She saw children coming to school on Monday morning complaining of hunger pains and saying there wasn't food in the home, so they hadn't eaten since Friday at school lunch. As we started to research the plausibility of the Backpack Program, we found the same story at many schools. Teachers, counselors and principals all shared the concern over their student's nutritional needs. The schools became our strongest partner in the Backpack Program, helping to identify the students in need and distribute the bags to them.

We pack the bags with 4 meals, 4 snacks, cereal, 2 servings of fruit, 2 servings of vegetables, milk and juice. Each spring and fall we conduct a survey of participating students, their teachers and parents to evaluate the program and make any adjustments. Over the past 3 years parents report increases in their child's concentration (95%), improved behavior (87%) and health (87%), and improvements in academic performance (90%).

76% of teachers report a decrease in absenteeism (82% report increase in Friday attendance-the day bags are distributed), 90% hear less hunger related comments and 82% see increased concentration. They share comments that the participating students seem happier and more focused. Teachers have also noticed more and more students bringing their Backpack snacks to school during the week. With the nutritional changes with the school lunch program, students are relying on their Backpack items more frequently than just the weekend.

As you can imagine, the students tell us they would like more snacks and less vegetables. They are excited to get their bags and over the three years report a decrease in their weekend hunger. Below you'll find the students ranking of their favorite foods. Juice consistently remained their 2nd favorite food item followed closely by milk.

2011	2012
Breakfast Cookies	Cereal
Juice	Juice
Cereal	Beef Stew
Milk	Cheerios
Cheddar Snacks	Milk

HB1421 would provide low-income children a much needed snack, in the form of milk and juice, a nutritious snack that students consistently enjoy. We have seen proof that when children are fed they

are equipped to learn, grow, and imagine a future filled with opportunity. Hunger amongst our children can have lifelong and extremely costly consequences. Hungry children suffer physical, emotional and developmental impairment. Hungry children don't learn as well at school, which in turn, limits their potential and productivity as adults. Adults who experienced hunger as children are often not as well prepared mentally, emotionally, physically, or socially to perform in today's work environment. We have the opportunity to do something positive in the lives of over 33,000 students who rely on free and reduced school meals.

On behalf of the 33,000 students who could benefit from this snack, we ask that you support HB 1421.

Melissa Sobolik
Director of Agency & Client Services
Great Plains Food Bank

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